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In re Application of REES

U.S. Application No.: 09/936,878

Int. Application No.: PCT/GB01/00241

Int. Filing Date: 22 January 2001

Priority Date: 20 January 2000

Attorney Docket No.: 16230-8446

For: PHYSIOLOGICAL MEDIUM FOR  
PERFUSING, PRESERVING, AND  
STORING ISOLATED CELL, TISSUE  
AND ORGAN SAMPLES

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 19 February 2002.

**BACKGROUND**

On 22 January 2001, applicant filed international application PCT/GB01/00241, which claimed priority of an earlier United Kingdom application filed 20 January 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 26 July 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 20 September 2001.

On 17 September 2001, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission did not include the basic national fee required under 35 U.S.C. 371.

International application PCT/GB01/00241 became abandoned as to the United States at midnight on 20 September 2001 for failure to pay the basic national fee.

On 19 February 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR

1.17(m), and a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

### DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

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